HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO:1472 OF 2005

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JUDGMENT (Per the Honourable Smt. Justice T.Meena Kumari.)

This writ appeal is filed by the appellants aggrieved by the order of the learned single Judge in W.P.No:4145 of 1998, dated 15.7.2005.

The 1st respondent herein and the appellants are respondents-1 to 7 respectively whereas the 2nd respondent herein is the writ petitioner. The writ petitioner has filed the writ petition seeking to declare the action of the respondents in not regularizing the petitioner in Bharat Petroleum Corporation Limited, Nizamabad as arbitrary and illegal and to direct the respondents to regularize his services in the post of Asst.IV in the scale of Rs.2907- 6000 with all usual benefits and allowances.

The learned single Judge having considered the rival contentions, without expressing any opinion on the merits of the case, directed the respondents to consider the case of the petitioner for accommodating him in the post of Asst.IV or in any other suitable post in any other Depot. It is also made clear by the learned single Judge that in view of the long service of 11 years in the cadre of Asst.IV, the respondents shall consider the case petitioner positively and issue proceedings within a period of one month from the date of receipt of a copy of that order. Having aggrieved by the said observation, the present writ appeal is preferred by the respondents.

Heard the learned counsel.

We have perused the material available on record and the order impugned.

It is contended by the learned counsel for the appellants that the

direction issued by the learned single Judge to consider the case of the petitioner positively and issue proceedings within a period of one month, amounts to passing an order on merits without going into the merits of the case. It is further contended that the order cannot be implemented within the stipulated time as consideration of the case of the petitioner depends upon the availability of the vacancies and other aspects and therefore, the same may be set aside.

In the facts and circumstances of the case, We see some force in the contention of the learned counsel. Therefore, We deem it appropriate to modify the order of the learned single Judge to the extent that the case of the petitioner shall be considered in the immediate vacancy as expeditiously as possible preferably within a period of six (6) months.

Subject to the above modification, this writ appeal is disposed of. No costs.

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(T.MEENAKUMARI, J)

17th August, 2005

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(P.LAKSHMANA REDDY, J)

Gurc/bud.

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(judgment delivered by Smt.Justice T.MeenaKumari)

17th August, 2005